

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN T. SCULL,

Plaintiff,

v.

DECISION AND ORDER
15-CV-309A

PATRICK K. HENNEGAN,
THOMAS G. WEING,
BRIAN DEL PORTO,
ROGER TREVINO and
JOHN P. BARTOLOMEI,

Defendants.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On April 26, 2016, Magistrate Judge McCarthy filed a Report and Recommendation (Dkt. No. 20), recommending that defendant Bartolomei's motion to dismiss the Complaint (Dkt. No. 4) be granted to the extent that it seeks to dismiss plaintiff's Fifth and Sixth Amendment claims but should otherwise be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant Bartolomei's motion to dismiss the Complaint is granted without prejudice as to plaintiff's Fifth and Sixth Amendment claims against the defendant, but is otherwise

denied.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

IT IS SO ORDERED.

Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: June 16, 2016